

TESTIMONY OF LYNNE M. MACKEY
BEFORE THE HOUSE ENERGY & TECHNOLOGY COMMITTEE
DECEMBER 20, 2007

Good Morning Mr. Chairman and Members of the Committee. Thank you for inviting me to speak this morning on behalf of LS Power Development, LLC.

The LS Power group of companies has developed, built or owned and operated more than 20 utility-scale, base-load power plants all across the United States in its 17 year existence. Today, LS Power has 2 coal-fired power plants in construction and 4 additional baseload plants in advanced stages of development, all utilizing state of the art pollution control technologies. LSP's 665 megawatt base-load power plant in Northwest Arkansas is expected to be in service in 2010 and its 900 megawatt baseload plant outside Dallas, Texas will be in service in 2013.

Among the other power plant projects in LS Power's development pipeline is the 750 megawatt base-load power plant we propose to construct on a site in Midland, Michigan adjacent to the Midland operations of Dow Chemical Company and Dow Corning Corporation. As of this date we have secured the plant site, done a substantial amount of the design and engineering work required to build a new power plant on the site and have applied to the Michigan Department of Environmental Quality for the permits we require in compliance with the federal Clean Air Act.

LS Power opposes House Bills 5520 through 5524

I have asked to testify before you today because of I have been told by some of the members of this Committee that your chief concern is to solve the problem of what may be preventing the development and construction of new power plants in Michigan. As an experienced power plant developer LS Power knows that there are ways to accomplish your

intended purpose without having to deprive Michigan citizens of their vested right to legally purchase electricity from anyone they choose. My purpose in testifying today is to describe one of those means.

House Bill 4630 introduced by Representative Moolenaar, co-sponsored by Representative Opsommer and referred to this Committee has many features in common with House Bill 5521 which you are considering today, but lacks all of its flaws. HB 4630 not only accomplishes the apparent purposes of HB 5521, the certificate of need bill, but in doing so eliminates the need for House Bill 5524, the bill which would take away the right to electric choice presently afforded Michigan's families and businesses.

Here is how House Bill 4630 would do that: First, like H B5521, H B 4630 establishes a procedure for the issuance to utility companies of a certificate of need. But, it does so in a much better way. Whereas H B 5521 leaves the timing and agenda of a certificate of need proceeding before the Public Service Commission to be decided by the utility companies – who have a clear conflict of interest – HB 4630 sets up a system of regular certificate of need proceedings for the two largest utilities and requires an examination of all relevant issues in those proceedings, including selection of technology and fuel, the proper role of efficiency programs, and the optimal use of the electric transmission system. And, HB 4630, would permit the participation by all appropriate parties in a certificate of need proceeding, including advocates of efficiency and renewables, transmission providers and independent power providers. HB 5521 would not.

Second, once a specific need for new facilities is identified in a HB 4630 certificate of need proceeding, a competitive solicitation for the provision of those new facilities would be conducted according to a system designed by the Public Service Commission and overseen by a disinterested party. HB 5521 lacks this feature because the HB 5521 Certificate of Need

proceeding is limited to a consideration of the single option advanced by the utility seeking the certificate, even though, as I have said, the utility would have a clear conflict of interest.

Third, HB 4630 proactively and positively solves the problem of regulatory uncertainty which the large utility companies have testified is preventing the construction of new base-load power plants in Michigan. HB 4630 provides unequivocally and without exception that once the Public Service Commission has made a determination of need and a new power plant or other source of electricity has been procured by the utility according to the procurement plan designed by the PSC, the public utility is absolutely entitled to recover the cost of the new facility or power from its customers in rates. This would resolve any concerns on the part of lenders or investors that the utility might be unable to repay the loans or investments.

To restate our view, LS Power is of the opinion that the package of bills under consideration by this Committee today will have the unmitigated effect of rendering competition in the wholesale electricity market in Michigan extinct.

In connection with the preparation of the 21st Century Energy Plan Michigan Public Service Commission staff commissioned a computer simulation of Michigan's electric system through the year 2025 in order to determine what new generating capacity the state would require. In their base case analysis the consultant, Siemens New Energy, using assumptions supplied by the Public Service Commission staff, concluded that between 2007 and 2025 Michigan would require 9,000 megawatts of new base-load electric generating capacity. In a recent filing with the Michigan Public Service Commission, Consumers Energy estimated that a new power plant coming on line at the end of 2014 would cost \$3,244,000 per megawatt to

construct. If Consumers is correct and if the Public Service Commission-commissioned computer simulation is correct, Michigan will require an investment of more than \$29 billion in new base-load power plants over the course of the next 17 years. I ask you to seriously consider whether it would be good policy to effectively render it impossible for anyone else but two inherently conflicted companies who haven't performed in such a role in at least 20 years to make any portion of that essential investment.

Ladies and gentlemen thank you for hearing my remarks today. I will be pleased to take your questions.